

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

PRECISION CPAP, INC., *et al.*,

Plaintiffs,

v.

JACKSON HOSPITAL, *et al.*,

Defendants.

*
*
*
*
*
*
*
*
*

Case Number: 2:05-CV-1096-MHT-DRB

MOTION TO QUASH SUBPOENA

COMES NOW Lincare Inc., by and through counsel, and moves to quash the Rule 45 Subpoena Duces Tecum to Lincare Inc. and as grounds therefor, states as follows:

1. This subpoena was served on or about the 7th day of August, 2006 and requires a response on or before the 30th day of August, 2006. It is respectfully submitted this fails to allow a reasonable time for compliance with the subpoena.

2. The subpoena requires the disclosure of privileged and other protected matter. It is respectfully submitted there are not exceptions or waivers applicable in this matter.

3. The subpoena will subject Lincare to undue burden in trying to comply with the terms of the subpoena as it is vague and difficult to interpret; additionally, it appears there has been no provision made or offered with regard to reimbursement for the costs expected in complying with the request.

4. The relevant information requested can more easily be obtained from one of the other defendants in that information related to patient referrals from Jackson Hospital, Baptist South, Baptist East, and Baptist Prattville should be readily obtainable from the named defendants.

5. The subpoena requires disclosure of trade secrets or confidential research, development, or commercial information to a direct competitor of Lincare Inc.

6. Notwithstanding the above, counsel for Lincare Inc. is working with counsel for Baptist Ventures-American Home Patient and American Home Patient, Inc. to resolve issues related to the production of items sought in the non-party subpoena.

WHEREFORE, PREMISES CONSIDERED, Lincare Inc. moves that the subpoena be quashed or in the alternative, modified and for such other and further relief as is just.

Respectfully submitted,

RITCHEY & RITCHEY, P.A.

Gregory S. Ritchey, Esquire {RIT010}
Richard S. Walker, Esquire {WAL157}
Counsel for Lincare Inc.

OF COUNSEL:

RITCHEY & RITCHEY, P.A.

P.O. Drawer 590069

Birmingham, AL 35259-0069

Phone: 205.271.3100

Facsimile 205.271.3111

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of the foregoing has been served upon the following:

Glenn B. Rose, Esquire
J. David McDowell, Esquire
Harwell Howard Hyne Gabbert
& Manner, P.C.
315 Deaderick Street, Suite 1800
Nashville, TN 37238

Mike Carlson, Esquire
William Carlson & Associates, P.C.
Post Office Box 660955
Birmingham, AL 35266

Brian M. Clark, Esquire

James E. Williams, Esquire
Melton, Espy & Williams, P.C.
301 Adams Avenue
Montgomery, AL 36104

Dennis R. Bailey, Esquire
Rushton, Stakely, Johnson & Garrett, P.A.
184 Commerce Street
Montgomery, AL 36104

Wiggins, Childs, Quinn & Pantazis
The Kress Building
301 19th Street North
Birmingham, AL 35203

by placing a copy of same in the United States Mail, postage prepaid, on this the 18 day of August, 2006.


OF COUNSEL